



PUBLIC NOTICE

Federal Communications Commission
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**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF
ASSETS OF USD CLEC, INC., DEBTOR-IN-POSSESSION, BY
WARWICK VALLEY MOBILE TELEPHONE COMPANY**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 09-39

Comments Due: April 16, 2009

Reply Comments Due: April 23, 2009

On March 20, 2009, USD CLEC, Inc., Debtor-in-Possession (USD CLEC),¹ and Warwick Valley Mobile Telephone Company, d/b/a WVT Business Communications (Warwick) (collectively, Applicants), filed an application pursuant to section 63.03 of the Commission's rules seeking approval to assign certain customers, contracts, and other assets from USD CLEC to Warwick.² USD CLEC, a New York corporation, is authorized to provide competitive local exchange and long distance services in multiple states. It is wholly owned by US Datanet Corporation, which does not provide telecommunications services. Applicants state that no entity owns at least 10 percent of the equity of US Datanet Corporation. Warwick, a New York corporation that is in the process of obtaining authorization to provide competitive telecommunications services in New York and New Jersey, is wholly-owned by Warwick Valley Telephone Company, a publicly traded competitive local exchange and long distance carrier serving primarily rural areas in New York and New Jersey.³ Applicants state that no entity owns at least 10 percent of the equity Warwick Valley Telephone Company.

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. On October 3, 2008, USD CLEC and its parent company, US Datanet Corporation, filed voluntary petitions with the U.S. Bankruptcy Court for the Northern District of New York (Bankruptcy Court), pursuant to Chapter 11 of the U.S. Bankruptcy Code (*See* Case Nos. 08-32560 to 32562).

² 47 C.F.R § 63.03; *see* 47 U.S.C. § 214. Applicants filed supplements to their domestic section 214 application on March 26 and April 1, 2009. Applicants filed a request for Special Temporary Authority (STA) to close the transaction on April 1, 2009. They state that USD CLEC has been in bankruptcy for several months and will be unable to continue to provide service to customers. On April 2, 2009, the Wireline Competition Bureau granted the STA for a period of 60 days. Letter from Duane Albro, Warwick Valley Mobile Telephone Company, and John Turner, USA Datanet, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-39 (filed Mar. 20, 2009).

³ Warwick Valley Long Distance, Inc., a wholly owned subsidiary of Warwick Valley Telephone Company, resells long distance services in New York and New Jersey.

On March 11, 2009, the Bankruptcy Court approved the sale to Warwick of USD CLEC's wholesale business customers located in multiple states.⁴ Applicants state that, after consummation of the sale, Warwick will provide wholesale service to the customers at the same rates, terms, and conditions as they currently receive. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.⁵

Domestic Section 214 Application Filed for the Acquisition of Assets of USD CLEC, Inc., Debtor-in-Possession, by Warwick Valley Mobile Telephone Company, WC Docket No. 09-39 (filed Mar. 20, 2009).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before April 16, 2009**, and reply comments **on or before April 23, 2009**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁶ Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's e-Rulemaking Portal. *See* 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Comments may be filed electronically using the Internet by accessing the ECFS, <http://www.fcc.gov/cgb/ecfs/>, or the Federal e-Rulemaking Portal, <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

In addition, e-mail one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: (202) 488-5300; fax: (202) 488-5563;

⁴ The customers are located in Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Vermont, Virginia, Washington, and Wisconsin. In a separate transaction that took place in July 2008, USD CLEC transferred its assets related to the operation of its casual calling/dial-around telecommunications business to another entity, Yak America, Inc. Application of USD CLEC, Inc. and Yak America for an Assignment of Certain Assets and Customers of USD CLEC, Inc. to Yak America, Inc., WC Docket No. 09-37 (filed Mar. 16, 2009).

⁵ 47 C.F.R. § 63.03(b)(2)(i).

⁶ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, tracey.wilson-parker@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, please contact Tracey Wilson-Parker at (202) 418-1394 or Jodie May at (202) 418-0913.

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